

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 35A.13, the Iowa Department of Veterans Affairs hereby gives Notice of Intended Action to amend Chapter 14, “Veterans Trust Fund,” Iowa Administrative Code.

The rules in Chapter 14 describe eligibility and procedures for the Veterans Trust Fund. These amendments provide clarity and implement changes required by legislation passed during the 2013 Session of the Iowa General Assembly.

Any interested person may make written suggestions or comments on these proposed amendments on or before July 16, 2013. Such written materials should be directed to Executive Director, Iowa Department of Veterans Affairs, Camp Dodge, Bldg. #3465, 7105 NW 70th Avenue, Johnston, Iowa 50131; by telephone (515)242-5331; or by fax (515)242-5659.

The Department of Veterans Affairs does not intend to grant waivers under the provisions of these rules other than as may be allowed under the Department’s general rules regarding waivers.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 35A.13 and 2013 Iowa Acts, House Files 545 and 613.

The following amendments are proposed.

ITEM 1. Amend rule 801—14.2(35A) as follows:

801—14.2(35A) Definition Definitions. For purposes of this chapter, “veteran” means the same as defined in Iowa Code section 35.1, ~~or a resident of Iowa who served in the armed forces of the United States, completed a minimum aggregate of 90 days of active federal service, other than training, and was discharged under honorable conditions,~~ or a former member of the national guard, reserve, or regular component of the armed forces of the United States who was honorably discharged due to injuries incurred while on active federal service that precluded completion of a minimum aggregate of 90 days of active federal service, other than training. For the purposes of this chapter, “dependent” means a spouse living with the veteran, an unremarried spouse of a deceased veteran, or minor children living with the veteran.

ITEM 2. Amend rule 801—14.3(35A), introductory paragraph, as follows:

801—14.3(35A) Eligibility. ~~Veterans, their spouses, and their dependents~~ Applicants applying for benefits available under subrules 14.4(1) through 14.4(9) must meet the following threshold requirements.

ITEM 3. Amend subrule 14.3(2) as follows:

14.3(2) Resources. The ~~department~~ commission may not pay award benefits under this chapter if the available liquid assets of the veteran are in excess of \$15,000. For the purposes of this chapter, “available liquid assets” means cash on hand, cash in a checking or savings account, stocks, bonds, certificates of deposit, treasury bills, money market funds and other liquid investments owned individually or jointly by the applicant and the applicant’s spouse, unless the applicant and spouse are separated or are in the process of obtaining a divorce, ~~but does not include funds deposited in IRAs, Keogh plans or deferred compensation plans, unless the veteran is eligible to withdraw such funds without incurring a penalty.~~

~~Cash surrender value of life insurance policies, real property, established burial account, or a personal vehicle shall not be included as available liquid assets.~~

ITEM 4. Amend subrule 14.3(4) as follows:

14.3(4) *Additional requirements and limitations.* Applicants must meet any additional requirements and are subject to any limitations which may be set out in this chapter or which may be established for a particular benefit. The commission may require two estimates when necessary. The commission may waive the requirement for one or more estimates in emergency situations.

ITEM 5. Amend subrule 14.4(1) as follows:

14.4(1) *Travel expenses for wounded veterans, and their spouses, directly related to follow-up medical care.* Travel expenses under this subrule include the unreimbursed cost of airfare, lodging, and a per diem ~~of \$25 per day~~ rate equal to the current federal IRS daily per diem rate for the facility location for required out-of-state medical travel that exceeds 125 miles from the veteran's home. Spouses may be reimbursed for in-state lodging and a per diem ~~of \$25 per day~~ rate equal to the current federal IRS daily per diem rate for the facility location when visiting a veteran who is in a hospital for medical care related to a service-connected disability. The distance from the veteran's home to the hospital must exceed 100 miles. The veteran or the veteran's spouse shall provide such evidence as the commission may require, which includes but is not limited to evidence the injury or disability is service-connected, the necessity of treatment in a particular facility, and documentation of expenses. ~~The maximum amount for lodging reimbursement shall be \$90.~~ The maximum amount of aid payable in a consecutive 12-month period under this subrule is \$1,000 or ten days of total reimbursement. The commission may waive the income threshold for this benefit.

ITEM 6. Amend subrule 14.4(2) as follows:

14.4(2) *Job training or college tuition assistance for job retraining.*

a. The commission may ~~pay a veteran~~ award not more than \$3,000 for retraining or postsecondary education to enable the veteran to obtain gainful employment. The commission may provide aid under this subrule if all of the following apply:

(1) The veteran is enrolled in a training course in a technical college or school, is enrolled in an accredited postsecondary institution, or is engaged in a structured on-the-job training program.

(2) The veteran is unemployed, underemployed, or has received a notice of termination of employment.

(3) The commission determines that the veteran's proposed program, or current program, will provide retraining or initial training that could enable the veteran to find gainful employment. In making its determination, the commission shall consider whether the proposed program, or current program, provides adequate employment skills and is in an occupation for which favorable employment opportunities are anticipated.

(4) The veteran requesting aid has not received full reimbursement or payment from any other retraining or education scholarship programs, and the veteran does not have other assets or income available to meet retraining or initial training expenses. Applicants requesting aid under this subrule will only be granted the unpaid portion of their tuition statement, and the payment will be made directly to the institution.

b. The veteran shall provide such evidence as the commission may require to satisfy the requirements of this subrule.

ITEM 7. Amend subrule 14.4(3) as follows:

14.4(3) *Unemployment or underemployment assistance during a period of unemployment or underemployment due to prolonged physical or mental illness resulting from military service or disability resulting from military service.* A period of unemployment implies that it is possible for the veteran to be employed in the future. A rating from the VA of 100 percent due to individual unemployability (IU) rated permanent and total indicates that a veteran is unemployable and will not qualify for assistance under this subrule. The commission may provide subsistence payments only to a veteran who has suffered a loss of income due to prolonged physical or mental illness resulting

from military service or disability resulting from military service. The commission may provide subsistence payments of up to \$500 per month of unemployment or underemployment to a veteran. No payment may be made under this subrule if the veteran has other assets or income available to meet basic subsistence needs. ~~A period of unemployment implies that it is possible for the veteran to be employed in the future. A rating from the VA of 100 percent due to individual unemployability (IU) rated permanent and total indicates that a veteran is unemployable and will not qualify for assistance under this subrule.~~ The veteran shall provide such evidence as the commission may require, which includes but is not limited to evidence that the mental illness or disability is service-connected and evidence that the veteran is unemployed or underemployed for the period of payments. To qualify as underemployed, the applicant must be currently working at an income that is below 150 percent of federal poverty guidelines due to limitations caused by the applicant's service-connected disability or illness. The maximum amount of aid payable in a consecutive 12-month period under this subrule is \$3,000 and a lifetime maximum of \$6,000.

ITEM 8. Amend subrule 14.4(4) as follows:

14.4(4) *Expenses related to hearing care, dental care, vision care, or prescription drugs.*

a. ~~The commission may provide health care aid to a veteran, to the veteran's spouse or dependents, or to the unremarried spouse of a deceased veteran~~ for dental care, including dentures; vision care, including eyeglass frames and lenses; hearing care, including hearing aids; and prescription drugs that are not covered by the Veterans Affairs medical center.

b. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed \$2,500 for dental care, \$500 for vision care, \$1,500 per ~~ear~~ year for hearing care, and \$1,500 for prescription drugs. The lifetime maximum may not exceed \$5,000 for dental care, \$1,000 for vision care, \$3,000 for hearing care, and \$3,000 for prescription drugs.

c. The commission shall not provide health care aid under this subrule unless the aid recipient's health care provider agrees to accept, as full payment for the health care provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the commission determines the veteran is capable of paying. Payment under this subrule will be provided directly to the health care provider. ~~The commission shall not pay health care aid under this subrule if the available liquid assets of the veteran are in excess of \$5,000.~~

d. Applicants for assistance under this subrule will be required to provide the commission with an unpaid bill for service or an estimated cost of service from the health care provider and documentation of the need for the service. For prescription drugs, the applicant must produce documentation of the need for the prescribed drug and documentation stating whether a generic drug is available or appropriate. The commission payment will not exceed an estimated cost of service by a health care provider.

ITEM 9. Amend subrule 14.4(5) as follows:

14.4(5) *Expenses relating to the purchase of durable equipment or services to allow a veteran, the veteran's spouse or dependents, or the unremarried spouse of a deceased veteran to remain in their home.*

a. The commission may make reimbursement payments to a veteran or to the unremarried spouse of a deceased veteran for the purchase of durable equipment that allows the veteran, the veteran's spouse or dependents, or the unremarried spouse of a deceased veteran to remain in their home or allows them the ability to utilize more of their home.

b. ~~Individuals requesting reimbursement under this subrule will be required to provide verification of the purchase and installation of the equipment and information relating to the need for the equipment. Individuals may also~~ will provide a product and installation cost estimate to the commission for approval, with the understanding that the commission will pay no more than the cost estimate to the supplier or installer. Applicants needing durable equipment as a medical necessity should provide information from a physician. Individuals requesting reimbursement under this subrule will be required to provide verification of the purchase and installation of the equipment.

c. Assistance under this subrule cannot duplicate assistance from other entities, and the maximum amount that may be paid may not exceed \$2,500.

~~d. The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of \$5,000.~~

ITEM 10. Amend subrule 14.4(6) as follows:

14.4(6) Individual counseling or family counseling programs.

a. The commission may make mental health, substance abuse, and family counseling available to veterans and their families. Individual family members are eligible for counseling.

b. The assistance may include appropriate counseling and treatment programs for veterans and their families in need of services provided that the services are from state-licensed health care professionals.

c. Any assistance provided under this subrule shall not duplicate other services readily available to veterans and their families. Veterans who are eligible for VA mental health services must initially visit their nearest VA medical facility for initial consultation and continued psychiatric treatment. Payment under this subrule will be made for additional services for the veteran in a location closer to the veteran's home and at a greater frequency than the VA medical center can accommodate.

d. The commission may provide up to \$150 per hour and \$75 per half-hour for outpatient counseling visits to providers who will accept as full payment for the counseling services the amount provided. Counseling and substance abuse services provided in a group setting may be paid up to \$40 per hour. Counseling and substance abuse services may also be provided in an inpatient setting, subject to the maximum amount eligible under 14.4(6) "f."

e. The maximum amount that may be paid under this subrule for any consecutive 12-month period shall not exceed \$5,000. Individuals seeking counseling services are eligible for up to \$2,500, individuals seeking substance abuse treatment and counseling combined are eligible for up to \$3,500, and families seeking counseling services that may also include individual counseling and substance abuse services are eligible for up to \$5,000.

f. The commission may not provide reimbursement for counseling under this subrule unless the aid recipient's counseling service provider agrees to accept, as full payment for the counseling services provided, the amount of the payment; the amount of the recipient's health insurance; or other third-party payments, if any; ~~and the amount that the commission determines the veteran is capable of paying.~~ The commission will make payment directly to the entity providing counseling and substance abuse services. ~~The commission shall not pay for counseling under this subrule if the available liquid assets of the veteran are in excess of \$5,000.~~

ITEM 11. Amend subrule 14.4(7) as follows:

14.4(7) Expenses relating to ambulance and emergency room services for veterans.

a. The commission may provide assistance to veterans for expenses related to ambulance trips, including air ambulance transportation, and emergency room visits for emergency care patients or VA health care patients that cannot indicate to emergency personnel that they are to be presented to a VA medical center.

b. Funding through this subrule shall be paid directly to the entity providing the emergency service or transportation after the commission is provided with an unpaid ~~bill~~ invoice. All efforts should be made to utilize all other methods of payment prior to accessing assistance under this subrule.

c. The maximum amount that may be paid under this subrule may not exceed \$5,000.

ITEM 12. Amend subrule 14.4(8) as follows:

14.4(8) Emergency expenses related to vehicle repair, housing repair, or temporary housing assistance.

a. The commission may provide assistance to a veteran or to the unremarried spouse of a deceased veteran for emergency vehicle repair, emergency housing repair, and temporary housing.

b. Assistance for vehicle repair is limited to expenses that are required for continued use of the vehicle. This assistance will only be granted in cases where the vehicle is needed for travel to and from work-related activities, the applicant is over the age of 65, or substantial hardship will occur if the vehicle is not repaired. Assistance may be provided in situations where the applicant does not have sufficient means to pay an insurance deductible. Assistance ~~may~~ will be paid directly to the entity performing the

maintenance or the insurance company owed the deductible. ~~In certain circumstances, reimbursement may be made to the veteran or to the unmarried spouse of a deceased veteran in order for the vehicle to be released from the entity providing the service.~~ Assistance will not be provided for damage caused during the commission of a crime, for cosmetic needs, for damage resulting in an auto accident when automobile insurance has not been purchased, or for routine maintenance.

c. Assistance for home repair is limited to repairs that are required to improve the conditions and integrity of the home and are necessary for the safety and security of the residents. Applicants with homeowners insurance may request assistance for payment of a deductible. Assistance may be provided for applicants in disaster situations, home accidents, vandalism, or other situations as determined by the commission. ~~In situations where a home is damaged beyond repair, assistance under this subrule is available to assist the applicant in purchasing a new home.~~

d. Assistance for transitional housing may be provided to applicants who are displaced from their home during a period of repairs related to a disaster, vandalism, home accident, or other reason that makes staying in the home hazardous to the health of the residents. ~~Any refunded security deposits paid for under this subrule shall be returned to the Iowa veterans trust fund.~~

e. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed \$2,500 for vehicle repair, \$3,000 for housing repair, and \$1,000 for transitional housing.

f. ~~The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of \$3,000.~~ The commission will not approve expenditures to completely replace a vehicle.

ITEM 13. Amend subrule 14.4(9) as follows:

14.4(9) *Expenses related to establishing whether a minor child is a dependent of a deceased veteran.*

a. The commission may provide assistance to the family of veterans who are killed while serving on active federal service, for expenses related to paternity or maternity tests or the cost of procuring additional DNA samples from the deceased veteran. This assistance is available to determine whether a child is eligible for United States Department of Veterans Affairs ~~war orphan~~ dependent benefits.

~~b. Applicants are required to provide the results of the paternity or maternity examinations to the commission upon completion of the tests. Where the deceased veteran is not the parent of the child, the applicant will be required to repay the assistance received as provided in 801—14.6(35A).~~

~~c. b.~~ The maximum amount that may be paid under this subrule is \$2,500.

~~d. c.~~ The commission may waive the income threshold for this benefit.

ITEM 14. Amend subrule 14.4(11) as follows:

14.4(11) *Honor guard services.*

a. The commission may reimburse veterans organizations for providing military funeral honors as follows:

(1) If a single veterans organization provides basic honors, \$25. (Flag fold and presentation, TAPS)

(2) If a single veterans organization provides full honors, \$50. (Basic plus rifle volley)

(3) If two or more veterans organizations participate in providing full honors and one of the organizations provides a firing detail, \$50. ~~The organizations may request that the commission split the reimbursement.~~

(4) If two or more veterans organizations participate in providing basic honors, \$25. Payment shall be to one veterans organization, as ~~determined by the commission~~ requested.

b. Notwithstanding paragraph 14.4(11) "a," the commission shall not reimburse a veterans organization if federal funding is available to reimburse the veterans organization for providing military funeral honors. The veterans organization shall request reimbursement from federal sources. If a veterans organization receives federal funding for providing military funeral honors at the reimbursement rate of one funeral per day, the department shall reimburse the organization for the provision of military funeral honors at any additional funerals on that day.

c. The maximum amount of aid payable in a ~~calendar~~ state fiscal year under this subrule to a veterans organization is \$500, except veterans organizations that perform alone more than 50 services in one fiscal year may apply for a maximum of \$1,000.

d. Veterans service organizations that are not currently providing honor guard services may apply for a \$500, up-front grant, for the use of creating a new honor guard within their organization. Applicants must present the commission with an estimated cost for purchasing uniforms and firearms for providing military honors and an estimated number of members who will be available to perform honor guard services. Organizations should also provide information regarding how they plan to pay for additional expenses that may occur outside of trust fund assistance. ~~Applicants will be eligible for reimbursements under 14.4(11) “a” to “e” 12 months after the receipt of their original \$500 grant.~~

ITEM 15. Adopt the following **new** subrule 14.4(13):

14.4(13) *Expenses related to initial screening for any military service-connected traumatic brain injury.*

a. The commission may provide funding for expenses related to initial screening for any military service-connected traumatic brain injury sustained while on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1, or sustained while on federal reserve duty pursuant to orders issued under Title 10 of the United States Code for which payment or reimbursement is not otherwise available through any other federal or state program, or if applicable, through a veteran’s private insurance or managed care organization. A veteran seeking moneys for expenses pursuant to this paragraph 14.4(13) “a” shall not be subject to an income limit.

b. The commission and appropriate veteran service officer (VSO) or county veteran service officer (CVSO) will assist the veteran with enrollment in VA health care.

ITEM 16. Adopt the following **new** subrule 14.4(14):

14.4(14) *War orphan educational assistance.*

a. The commission may provide war orphan educational assistance as outlined in 2013 Iowa Acts, House File 613, section 2.

b. Funding for this category will be from the war orphans educational assistance account of the veterans trust fund.

ITEM 17. Amend rule 801—14.5(35A), introductory paragraph, as follows:

801—14.5(35A) Application procedure. Applications for benefits from the veterans trust fund may be obtained at any county veterans affairs office. The county director of veterans affairs shall date-stamp the application and submit it to the Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824.

ITEM 18. Amend subrule 14.5(3) as follows:

14.5(3) *Eligibility determination.*

~~a.~~ The county director of veterans affairs or members of the county commission shall make a recommendation to the Iowa commission of veterans affairs as to whether to approve or deny the application. The Iowa commission of veterans affairs or a subcommittee appointed by the chair shall approve or deny all applications. Applications submitted to the Iowa commission of veterans affairs will be processed at its quarterly meetings as set forth in 801—paragraph 1.2(2) “a” or during a conference call for the purpose of voting on a trust fund expenditure. Applications must be approved by a majority vote of the commission membership or appointed subcommittee. The designee of the director of the Iowa department of veterans affairs shall notify an applicant within 15 days of the commission’s decision. An explanation of the reasons for ~~rejection~~ denial or deferral of an application will ~~accompany denials~~ be stated in the notification.

~~b.~~ ~~Applications for honor guard reimbursements under subrule 14.4(11) shall be processed solely by the Iowa department of veterans affairs and do not need commission approval for expenditure of trust fund interest balance funds for this purpose.~~

ITEM 19. Amend subrule 14.5(4) as follows:

14.5(4) *Waiting list.* If sufficient funds are not available, a waiting list will be implemented. After all veterans trust fund moneys have been obligated, the commission shall approve or deny pending applications based on eligibility. Applicants who meet the eligibility requirements and are approved

for payment by the commission shall be placed on a waiting list based on the date of approval and then according to the order in which the completed applications and verification were received by the Iowa commission of veterans affairs. In the event that more than one application is received at one time, the applicant shall be entered on the waiting list on the basis of the applicant's birthday, the oldest applicant being first on the waiting list.